

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IFMK REALTY II, LLC,	:	
	:	
	:	
Plaintiff,	:	Civil Action No. 20-6989 (MAS)(DEA)
	:	
v.	:	ORDER
	:	
ATLANTIC PROPERTY DEVELOPMENT	:	
LLC, et al.	:	
	:	
Defendants.	:	
	:	

This matter comes before the Court on its review of a motion by Plaintiff IFMK Realty II, LLC (“IFMK” or “Plaintiff”) for entry of default judgment against Defendants Atlantic Property Development LLC (“Atlantic”) and Francis M. Ferrari.¹ In its motion, Plaintiff asserts that “[t]his Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) because the action is between citizens of different States and the amount in controversy exceeds \$75,000, exclusive of interest and costs.” ECF No. 15-1 at 7. However, the existence of diversity jurisdiction is not readily apparent from the record in this case.

According to the Complaint, Plaintiff “IFMK is a Nevada limited liability company with a principal place of business located at 9101 Alta Drive, Suite 1801, Las Vegas, Nevada 89145.” ECF No. 1 at ¶ 1. The Complaint describes Defendants as follows:

2. Atlantic is a New Jersey limited liability company with a principal place of business located at 116 Village Boulevard, Suite 22, Princeton, New Jersey 08540.
3. Ferrari is the Chief Executive Officer of Atlantic and an individual with an address located at 1671 Keely Lane, Sarasota, Florida 34232.

¹ The parties consented to the jurisdiction of the undersigned for disposition of this motion. ECF No. 17.

4. [Felix] Nihamin is the General Counsel and Director of Business Development of Atlantic and an individual with an address located at 707 Cinnamon Lane, Franklin Lakes, New Jersey 07471.

ECF No. 1 at ¶¶ 2-4.

As an initial matter, the record is devoid of information regarding the citizenship of the entities IFMK and Atlantic. Both IFMK and Atlantic are limited liability companies. For the purposes of diversity jurisdiction, the citizenship of a limited liability company is determined by the citizenship of its members. *Johnson v. SmithKline Beecham Corp.*, 724 F.3d 337, 350 (3d Cir. 2013) (“the citizenship of an unincorporated association like a limited liability company is determined by looking to the citizenship of its members”). Neither the Complaint nor Plaintiff’s motion contain any information with respect to the citizenship of the members of these LLCs.

Similarly, the citizenship of the individual Defendants is not adequately pled. Even if the Court presumes that the individual Defendants reside at the address provided in the Complaint, “[s]tating that a party is a ‘resident’ rather than a citizen or domiciliary of a state is ‘jurisdictionally inadequate.’” *Adam Techs. LLC v. Well Shin Tech. Co.*, No. 18-CV-10513, 2021 WL 141371, at *4 (D.N.J. Jan. 15, 2021) (quoting *McNair v. Synapse Grp. Inc.*, 672 F.3d 213, 219 n.4 (3d Cir. 2012)); *see also GBForefront, L.P. v. Forefront Mgmt. Grp., LLC*, 888 F.3d 29, 35 (3d Cir. 2018) (holding that “[a]lleging residency alone is insufficient to plead diversity of citizenship”).

As the Third Circuit has noted, it is well-settled that “[w]e presume that federal courts lack jurisdiction unless the contrary appears affirmatively from the record.” *In re Johnson & Johnson Talcum Powder Prod. Mktg., Sales Practices & Liab. Litig.*, 903 F.3d 278, 288 (3d Cir. 2018) (quoting *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 n.3, 126 S.Ct. 1854, 164

L.Ed.2d 589 (2006)). The Court will permit Plaintiff the opportunity to supplement its motion in order to establish for the record that subject matter jurisdiction exists in this case. Accordingly,

IT IS on this 4th day of February 2021

ORDERED that no later than 14 days from the filing of this Order, Plaintiff is to supplement its motion and demonstrate by affidavit or otherwise the existence of subject-matter jurisdiction pursuant to 28 U.S.C. § 1332(a).

s/ Douglas E. Arpert
DOUGLAS E. ARPERT
United States Magistrate Judge